



The United States Attorney's Office

Western District of Kentucky



Department of Justice

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CANAL BARGE COMPANY AND THREE EMPLOYEES GUILTY OF VIOLATING PORTS AND WATERWAY SAFETY ACT BY FAILING TO REPORT A BENZENE LEAK

OWENSBORO, KY - Canal Barge Company, Inc., of Belle Chasse, Louisiana; Paul D. Barnes, age 50, of Belle Chasse, Louisiana; Jeffrey A. Scarborough, age 49, of Mendenhall, Mississippi; and Randolph Martin, age 53, of 1259 of Atmore, Alabama, were found guilty by a federal jury in United States District Court, Owensboro, Kentucky, of a criminal violation of the Ports and Waterway Safety Act, U.S. Attorney David L. Huber of the Western District of Kentucky, with Ronald J. Tenpas, Assistant Attorney General for the DOJ Environment and Natural Resources Division and Ricky Langlois, Special Agent in Charge of the US EPA Criminal Investigation Division's Atlanta Area Office announced today.

The jury's verdict of guilty was returned following a ten-day trial before Joseph H. McKinley, Jr., Judge, United States District Court.

"The defendants tried to cover up the release of benzene -- a known carcinogen -- as though it never happened," said Ricky Langlois, Special Agent in Charge of EPA Criminal Investigation Division's Atlanta Area Office. "This conviction shows that the public will not tolerate criminal acts that threaten their health and their environment."

Canal Barge Company, Inc. ("CBC") is a marine transportation company based in New Orleans. Paul Barnes is employed by CBC as a Port Captain. Scarborough and Martin are employed by CBC as Captains.

Barnes, Scarborough, Martin, and Canal Barge Company were tried for not reporting that they had experienced a benzene leak on CBC barge 222. None of the defendants reported the hazardous condition to the United States Coast Guard as required by law. Instead, the defendants concealed the leak, patched it and passed the barge to another barge company for transit on the Ohio River without informing them of the leak. Later, on or about June 20, 2005, the patch did not hold, causing another leak, which caused persons on the vessel owned by the second company to seek medical attention.

[Trial Facts](#)

The 562,800 gallon load of benzene was initially loaded into CBC's barge 222 in Wood River, Illinois, and was destined for Catlettsburg, Kentucky. The facts proven at trial are that on the afternoon of June 16, while checking the tow lines, two deck hands with CBC, Aaron Lewis and Dean Barnett, observed a breach in a weld on the deck of barge 222. A stream of benzene approximately three inches wide spewed from the crack, onto the deck, and flowed over both sides of the barge into the river. One of the deck hands advised Scarborough, who was on watch at the time, that there was a leak in the barge. Scarborough directed the deck hand to use a bar of soap to temporarily patch the crack. The deck hand was able to temporarily minimize the leak by rubbing soap on the crack. An EPA toxicologist testified that benzene is a known human carcinogen and can cause acute leukemia and anemia.

Scarborough contacted CBC's dispatch office in New Orleans and advised them that there was a pin hole crack in barge 222. Dispatch notified Barnes, and shortly thereafter, Barnes contacted Scarborough and advised him to patch the crack with a patching material referred to as "red hand." Barnes also contacted CBC's maintenance superintendent and advised him of the problem with barge 222 and asked him to check on the barge when it arrived in one of the designated fleeting areas. Later that day, Martin took over operation while Scarborough patched the crack in the barge.

No one contacted the United States Coast Guard (USCG) to advise them of the breach in the barge. Scarborough and Martin signed off on the daily log but did not document that there had been a breach in barge 222.

Later that evening, midway between Wood River and Cairo, Illinois, the crew transferred barge 222 to the crew of another CBC-owned motor vessel. Barge 222 continued south on the Mississippi River toward Cairo, Illinois, and another deck hand was exposed to the leaking benzene at that time. On June 18, the crew left barge 222 in a fleeting area across from Cairo, Illinois.

On the evening of June 18, a motor vessel operated by another barge company picked up barge 222 from the fleeting area outside of Cairo and headed north on the Ohio River. The crew of the other barge company was not advised that there had been any problem with the barge. Moreover, the patch covering the crack in barge 222, which was red when originally applied, had been painted grey to blend in with the existing color of the barge.

On June 20, while headed north on the Ohio River, a crew member noticed a slick liquid on the deck of the barge and the smell of benzene. The crew traced the source of the liquid to a crack in the barge. The crack was located in an area that appeared to have been previously patched and painted grey. The Captain notified his dispatch office, who notified the Coast Guard, National Response Center and CBC. The Captain initiated a benzene spill plan and proceeded to a fleeting area near Mount Vernon, Indiana, for assistance. When the vessel reached Mt. Vernon, three crew members who had been exposed to benzene fumes were removed from the vessel and transported to the hospital for testing. Two people who responded to the scene to address the leak also were exposed to the benzene.

The maximum potential penalties for the individual defendants are five years' imprisonment, a \$250,000 fine, and supervised release for a period of three years. The minimum penalty is \$2,500 per day of the violation.

The maximum potential penalty for the corporation is a \$500,000 fine.

The case was prosecuted by Assistant United States Attorneys Randy Ream and Madison T. Sewell and the U.S. Department of Justice, Environmental Crimes Section Attorney Jennifer Whitfield. It was investigated by the US EPA Criminal Investigation Division's Louisville Resident Office.

Barnes, Scarborough, Martin, and CBC are scheduled to be sentenced before Judge McKinley on June 27, 2008 at 9:30 a.m. in Owensboro, Kentucky.

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